

BEFORE THE STATE ENGINEER OF THE STATE OF UTAH

PROVO CITY CORPORATION,  
a municipal corporation of  
the State of Utah,

Applicant,

vs.

PROVO RIVER WATER USERS ASSOCI-  
ATION, a corporation; UTAH LAKE  
DISTRIBUTING COMPANY, a corpor-  
ation; KENNECOTT COPPER CORPOR-  
ATION, a corporation; CENTRAL  
UTAH WATER CONSERVANCY DISTRICT,  
a public corporation of the  
State of Utah; UNITED STATES OF  
AMERICA, Bureau of Reclamation,  
Department of Interior,

Protestants.

PREHEARING ORDER

This matter having come on before the State Engineer on the 8th day of January, 1975, at a prehearing conference held before Dee Hansen, State Engineer of the State of Utah, and Jackson Howard having appeared as counsel for the applicant, and James B. Lee, Edward W. Clyde and Joseph Novak having appeared as counsel for the protestants and Dallin Jensen having appeared as counsel for the Engineer; and the State Engineer having considered the various issues involved, he now enters this PRE-HEARING ORDER:

1. General Nature Of The Claims Of The Parties.

A. Applicant claims as a matter of right the opportunity to permanently change the point of diversion and system of delivery of the water specified in a-6812. Applicant further claims this is an ancient water right predating 1903 and reaffirmed by the Morse decree. (Civil No. 2888)

B. Protestants claim the granting of this application would adversely effect their water rights.

2. Uncontroverted Facts. Provo City, under the Morse decree, received 10 CFS under paragraph 3 and paragraph 4(b) of the Decree.

3. Contested Issues of Fact.

A. Whether Provo has used the water to satisfy municipal uses such as irrigation, power, culinary and domestic.

B. Whether the vested rights of any of the protestants would be hurt by changing the point of diversion and system of delivery.

4. Applicable Provisions Of The Morse Decree. (Civil No. 2888)

Paragraph 3.

Paragraph 4(b).

5. Contested Issues of Law. The contested issues of law, in addition to those implicit in the foregoing issues of fact, include:

A. Whether the protestants have standing to protest.

B. Whether the protestants have any water rights that would be impaired by the granting of the application.

C. Whether the rights of the protestants are subsequent in time to the applicants and, therefore, inferior.

D. Whether the State Engineer has authority or power to do anything but grant the application.

6. Other Matters And Orders.

A. Agenda for Hearing.

1. Proof by Engineer.

2. Proof by Applicant.

3. Proof by Protestants.

B. Other Matters.

9. Date Of Hearing.

DATED at Provo, Utah, this \_\_\_\_\_ day of January, 1975.

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DEE HANSEN, State Engineer

Never intend to shift the burden of proof to the parties  
but did feel like giving you first  
opportunity so we could determine the  
area's of weakness and then reassess  
only those areas

Dr. Hansen, State Engineer